Life After Reform
When the Bipartisan Campaign Reform Act Meets Politics

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National Political Parties After BCRA

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No organizations were affected more directly by BCRA than the two major parties' national, Senate, and House campaign committees. To help us think about the potential long-term effects of BCRA on the national parties, we discuss the parties in terms of their goals, resources, and the political environments in which they must operate. The parties' goals—to win majorities in the two houses of Congress and control of the presidency—will not change. Nor, for the near term, will the highly competitive political environment. What BCRA will change are the means by which parties acquire and spend resources.

The national party committees must change how they raise and spend money in order to continue winning elections to control government. The national parties are the only party committees inclined to focus exclusively on winning elections for federal office. Indeed, the national parties break down the responsibility by office, so that each type of federal candidate has a party committee devoted to its electoral interests. The Republican National Committee (RNC) and the Democratic National Committee (DNC) are concerned primarily with the party's campaign for the presidency. The National Republican Senatorial Committee (NRSC) and the Democratic Senatorial Campaign Committee (DSCC) work to elect their partisans to the U.S. Senate, and the National Republican Congressional Committee (NRCC) and the Democratic Congressional Campaign Committee (DCCC) support their parties' candidates for the U.S. House of Representatives.

Since the late 1980s, the national parties have adapted to a variety of changes in the campaign environment, and continue to follow strategies to maximize the number of seats won in Congress and to take the presidency. For congressional elections, the national parties invest their resources in the most competitive races
to maximize their chances of holding on to the seats they already control and to win more seats. The close margin of control in both the House and the Senate in recent years has motivated both major parties to raise and spend extremely large sums of money and target those resources efficiently. During the 2002 elections, fewer than forty House seats (Walter 2002, 10) and only fifteen of the thirty-four contested Senate seats (Duffy 2002, 4) were thought to be competitive. To win the White House, the parties concentrate their resources on those states that are both competitive and rich in electoral votes. In the 2000 election, the presidential candidates and their parties directed most of their energies and resources to only about seventeen states in the last few months of the election.

If the parties' electoral goals and short-term environment are settled, their resources are not. From the 1970s to the mid-1990s, the national parties relied on hard money to support their electoral efforts. After the mid-1990s, parties began to use soft money (which they had collected for "building fund" expenses and nonfederal elections since the early 1980s) to fund issue advocacy campaigns, which greatly increased the size of the parties' monetary presence in campaigns. BCRA restricts the ability of the national party committees to assist their candidates by prohibiting them from raising and spending soft money—the unlimited and largely unregulated contributions to the parties that came from wealthy individuals and otherwise prohibited sources such as corporations and labor unions. At the same time, the new law attempts to encourage hard money fund-raising and certain campaign activities over others, such as grassroots-voter mobilization rather than media campaigns. Thus the important question to ask is how BCRA will change the way that the national parties pursue these goals within this political environment.

WHAT HAS CHANGED?—RESOURCES

The most significant change for national parties is that they will no longer be permitted to raise or spend any soft money (and thus cannot use it for issue advocacy ads or operating expenses). The national party committees have raised tremendous amounts of soft money in recent years. Figure 5.1 shows the dramatic increase in national party soft money receipts since the early 1990s (when soft money receipts were first reported to the Federal Election Commission). The increase in soft money receipts for the 2002 midterm election compared to the 1998 midterm election is particularly significant, because the national party committees typically raise more during presidential election cycles than for the off-year elections. Soft money fund-raising was almost on par with the 2000 presidential election, a clear adjustment in anticipation of BCRA. We doubt the national party committees will be able to replace all of this soft money with hard money in the near future, though others may disagree. Yet, over time, the committees may find ways to raise large sums in hard money by expanding their donor base and altering the nature of their fund-raising appeals, much as they did throughout the 1980s (Klodny and Dwyre 1998).

Indeed, the new law does increase the hard money contribution an individual may give to a national party committee, from $20,000 to all national party committees per year ($40,000 per two-year election cycle) to $25,000 per election cycle per party committee, with an aggregate total of $57,500 per cycle to all national party committees and PACs. (These limits, for the first time, were also indexed for inflation.) The amount individuals may give to candidates also increased, from $1,000 per election to $2,000 per election, also indexed for inflation. Yet the amount that a multicandidate PAC may contribute to a national party committee remains the same, at $15,000 per year, and PAC contributions are not indexed to inflation, so their value will continue to erode over time. Further, the law sets a new aggregate limit for individual contributions, from $25,000 per calendar year to $95,000 in a two-year election cycle (and indexes it to inflation). Interestingly, this $95,000 limit is quite structured: no more than
$37,500 can be given directly to candidates and no more than $37,500 can be
donated to nonparty and state party political committees. Therefore, anyone
wishing to donate the maximum allowed by law will have to give the national
party committees between $20,000 and the limit of $57,500 (see table 1.1).

We expect that the national party committees will raise more hard money
from large contributors, as BCRA encourages. We also expect that the GOP
national party committees will raise more than their Democratic counterparts
at first, with their more developed direct-mail fund-raising operation and Repub-
lican control of the White House and Congress. Indeed, national party hard
money receipts for both parties were significantly up from the midterm election
in 1998, as figure 5.2 shows. Republican national party committees raised over
$100 million more in 2002 than they had in 1998, and the Democrats increased
their take by over $50 million (Federal Election Commission 2002c).

It is important, however, not to define the interests and role of the “national
parties” strictly in terms of existing committees. If the parties are understood
in terms of functions that serve the needs of office holders and candidates (Monroe
2001), some of the functions may be picked up by new organizations that will be
structured to meet the new law’s restrictions on parties. In July 2002 the FEC
issued some of the rules to implement BCRA, including one that allowed for the
creation of independent nonprofit partisan organizations that have an implied
connection to a national party organization. While some of these groups may
have had relationships with the national parties before the 2002 election, they
may escape from the soft money ban after the election, as long as federal officials,
candidates, national party officials, and their agents do not directly or indirectly
solicit money for these groups or direct money toward them (Campaign Finance
Institute 2002b). Indeed, operatives close to both parties were busy in the final
weeks before Election Day 2002 establishing such nonparty partisan organiza-
tions. These friends-of-the-party groups, or what reformers have come to call
“shadow” groups (Keller 2002a), are likely to share the national parties’ goals,
and to spend money in ways that pursue those goals. For example, these new
partisan groups can use their soft money to pay for issue advocacy ads, just as
the parties had done before passage of BCRA.

Most of these new quasi-party groups were established under section 527 of
the tax code, which allows them to spend all of their money on overt political
activities but requires them to disclose their contributions and expenditures to
the Internal Revenue Service (IRS), including supplying the names and addresses
of their contributors. The 527 groups established in the final weeks before the
election include the Democratic Senate Majority Political Action Committee,
headed by a one-time DCCC political director and former aide to Al Gore, and
the Leadership Forum, run by former Representative Bill Paxon (R-N.Y.) who
chaired the NRCC from 1993 to 1996, and by a former chief of staff to House
Majority Leader Tom DeLay (Keller 2002b).

Before Election Day 2002 the Leadership Forum received $1 million in soft
money from the NRCC. The Leadership Forum later returned the check, after
reform groups including Common Cause and the Center for Responsive Politics
filed an FEC complaint. Ironically, since it was a soft money contribution, the
NRCC cannot spend the returned $1 million now that BCRA bans party soft
money spending. Since these quasi-party groups are new and exist only in reac-
tion to the new law, they are operating very much in the dark, without much
guidance from the law, the FEC, or the IRS. We are likely to see more uncertain
actions from them in the future.

Another new nonprofit group, the National Committee for a Responsible Sen-
ate, with the initials NCRS—note the similarity to the initials of GOP’s Senate
campaign committee, the NRSC—was founded by three Republican lawyers who
work for one of Washington’s most prominent firms, Patton Boggs (Keller
2002b). The NCRS filed as a 501(c)(6) committee, the same designation used by
most trade associations. For the IRS to accept this designation, the organization
may not be devoted primarily to influencing elections, and the members must
have a common business purpose. While 501(c)(6) committees cannot spend a
substantial portion of their funds on overt electoral activities, they are not
required to disclose contributions under federal election law.
soft money in unlimited amounts, while before passage of BCRA the NRSC was required to report soft money contributions.

Some groups have formed as 501(c)(4) committees, the designation used by social welfare groups. 501(c)(4) committees also may not be devoted primarily to election activity. And like 501(c)(6) committees, 501(c)(4) groups can conduct voter education and issue advertising campaigns that could have an impact on elections. As long as their activities do not include candidate-specific broadcast advertising, these organizations do not have to disclose their donors. One of the new 501(c)(4) committees is the American Majority Fund, directed by Harold Ickes, President Clinton’s former top political aide; John Podesta, former Chief of Staff to Clinton; and former Clinton State Department Policy Planning Director Morton Halperin (Weissman 2003). Another is Progress for America, a 501(c)(4) established by Tony Feather, the former political director of Bush-Cheney 2000 (Weissman 2003).

Although these new quasi-party groups cannot be run by the parties, or by House or Senate Members, and cannot coordinate their activities with the national party committees, BCRA allows elected officials to appear at fundraisers as long as they do not directly ask for soft money donations (Stone 2002, 2543–44). It is possible that these new party-allied groups could collect some of the soft money that the parties must now forgo.

The national parties are preparing for the new law in the states as well. For instance, the DNC hired a consultant in 2001 to help with state party development in preparation for the limited soft money fund-raising that the state and local parties will be permitted to do under BCRA. (See the discussion of the “Levin Amendment,” described in table 1.1 and discussed below.) A new organization, the Democratic State Party Organization, was created to train and advise state parties on the limited voter registration and get-out-the-vote (GOTV) activities that may be funded with this soft money (Stone 2002).

Reformers say there is a danger that recent FEC regulations will encourage these new quasi-party groups to engage in activities that violate BCRA. House sponsors of BCRA, Representatives Christopher Shays, R-Conn., and Martin Meehan, D-Mass., are suing the FEC in federal court to overturn these permissive soft money rules for quasi-party groups. Senate sponsor John McCain, R-Ariz., also plans to introduce legislation to overhaul the FEC, and reform groups such as Common Cause, Democracy 21, and the Center for Responsive Politics are challenging the new quasi-party groups on legal grounds. The final outcome of the FEC regulations will determine whether these new partisan groups will be the conduits for partisan soft money in the future.

A number of well-established partisan groups are trying to direct soft money their way as well. For instance, the Republican Governors Association and the New Democratic Network (a group of influential, centrist congressional Democrats) both held briefings before the 2002 election for their big donors and fundraisers. They explained that they may raise soft money under BCRA, and encour-aged those who gave soft money to the parties in the past to give to them instead. The competition for soft money could get fierce. A former national chairperson of the Democratic National Committee predicts that there “certainly will [be] groups just because people think there’s gold in them there hills” (Stone 2002). Thus, as many congressional opponents of BCRA predicted, the amount of soft money in the campaign finance system may not go down significantly, and it certainly will be much more difficult to trace. Instead it might be raised and spent by new and existing groups that are not connected to the national parties. One prominent Washington political attorney, Ben Ginsberg of Patton Boggs, predicts that there will be “a complete transfer of soft money, from the national committees to outside entities” (Stone 2002). We expect, however, that these groups will be less successful at soft money fund-raising than the national parties had been, in large part because the nonparty groups do not represent a direct link to policy makers.

HOW WILL BCRA CHANGE NATIONAL PARTY ACTIVITIES?

While the national party committees will continue to pursue the same goal of winning federal elections, their activities in pursuit of this goal must change with the new law. One of the primary purposes of BCRA is to stop the national party organizations from raising soft money and spending it on unlimited issue advocacy campaigns. Hence, the main monetary activities of the six national party committees in the last four election cycles (1996, 1998, 2000, and 2002) must cease.

Soft money had allowed the parties to direct huge sums of money to targeted districts and states. Working together with the state parties, the national parties were able to spend significant sums of mixed hard and soft money in these races. Most of it was spent to produce and air issue advocacy advertising (ads that could be paid for in part with soft money because they did not expressly advocate the election or defeat of a federal candidate). Prior to 1996, when the parties figured out how to fully take advantage of the soft money--issue advocacy "loop-hole," parties generally made only hard money coordinated expenditures and direct contributions to candidates for federal office. With contributions limited to $5,000 per election and coordinated expenditures limited to a modest amount linked to inflation (in recent cycles, the total coordinated expenditure that national and state parties could make together through agency agreements was about $60,000), unlimited issue advocacy efforts were very attractive to the national parties. Indeed, with the average competitive congressional race costing over $1 million, coordinated expenditures equaled at most only about 6 percent of what a candidate spent on his or her own. On the other hand, the parties
concentrated their issue advocacy spending in only a handful of races and boasted that they spent just about as much as candidates did.

David B. Magleby studied competitive congressional races in 2000 and found that the major parties spent around $16 million dollars each on TV and radio ads alone in five Senate and twelve House elections (Magleby 2001). Soft money was also spent on party voter registration, voter identification, and GOTV efforts, as well as on overhead costs such as salaries, travel, postage, phone, and capital expenditures. By using soft money to help pay for overhead costs allowed the national parties to reserve scarce hard money for other activities, such as making direct contributions to candidates, or for mixing with soft money to run issue advocacy ads. This soft money spending dramatically increased the amount spent in the most competitive districts and states and is mainly responsible for the belief among candidates, pundits, and contributors that the parties are “relevant” after a long period of not having much impact in the electoral arena.

Our view, however, is that the focus on party soft money issue ads—the multi-million-dollar gorilla, if you will—has taken attention away from what the parties traditionally have done to assist candidates in federal elections and obscured the effectiveness of the various techniques they employ. Clearly, the amount of money spent on party issue ads has been impressive in the aggregate and in particular races. Often lost in the discussion is the fact that these issue ads have been used in only a few highly competitive races, and indeed the number of competitive races continues to decline (see table 8.1). The trends are similar for Senate and presidential elections, with competition confined to only a few states. So, although soft money gave the parties a great infusion of cash, the spending of it appeared in only a small number of states and House districts.

National Party Activities—It’s All Hard Money Now

Now, all national party activity must be paid for with hard money, as it had been prior to 1980. For example, national parties may still run issue advocacy ads, but they must use hard money to pay for them. The new law also requires state and local parties to use only hard money to pay for “federal election activities.” Yet, since many Democrats objected to a complete soft money prohibition for voter registration and GOTV efforts, the bill’s sponsors agreed to the Levin Amendment to BCRA. The Levin Amendment allows state and local parties to raise soft money in limited ($10,000) chunks (as long as state law permits) and spend it in restricted ways on grassroots voter mobilization. But state and local parties may not coordinate their soft money raising or spending with the national parties or federal candidates. (See chapter 6, in which Raymond J. La Raja discusses how Levin Amendment soft money is likely to work on the state and local levels and what impact it might have on federal elections.)

National party electoral activities include direct contributions to candidates, media advertising, direct mail, voter registration, voter identification and GOTV efforts, and polling. We expect that the parties will continue to engage in all of these activities, but that they will have fewer funds available to do so of them because of the loss of soft money. However, if there continue to be so few competitive federal electoral venues, the national parties will still be able to direct extensive resources to targeted races. Below, we discuss recent patterns in party hard money spending and speculate about what might occur in the future.

The new law also requires national party committees to choose how they intend to spend hard money for the support of each of their nominees. Prior to the passage of BCRA, parties were allowed to help candidates with hard money in three ways. Parties could make (1) direct contributions to candidates’ campaigns, (2) coordinated expenditures on candidates’ behalf and in consultation with them, and (3) independent expenditures, hard money funds spent to promote the election or defeat of a candidate without the favored candidate’s knowledge or consent. Originally, FEC allowed parties to make only contributions and coordinated expenditures. Parties won the right to spend independently in a 1996 Supreme Court case, Colorado Republican Federal Campaign Committee v. Federal Election Commission (known as Colorado I). At issue was whether parties could indeed spend “independently” of their nominees. The court believed that they could, at least before nomination.2 BCRA aims to fix the Supreme Court’s decision by requiring that all of a party’s committees choose to make either coordinated expenditures on behalf of a candidate (which are limited but indexed to inflation) or independent expenditures (which are unlimited but cannot be coordinated with a candidate). BCRA’s congressional sponsors wanted to limit party spending, and one way to do this was to dispense with the fiction that a party could spend in coordination with a candidate and at the same time independently of that candidate.

BCRA requires political party committees to choose between coordinated and independent expenditures on or after the day a political party nominates a candidate. The FEC’s new regulations, adopted on December 5, 2002, codify BCRA’s call for recognizing one party “group” among all national and state political party committees. This means that the actions of any one organization in the spending of coordinated or independent expenditures binds all of the other party’s committees to pursue only that type of spending, but only after a nomination has been made. At hearings on the regulations, many observers commented on the implications of a “rogue” committee making a spending decision that would bind all the rest, regardless of its wisdom. Making all party committees one party group should certainly have the effect of increasing communication between the various levels of the party to prevent such unforeseen events from occurring. Thus, the distance put between national and state party committees by the requirements of the Levin Amendment may be compensated for by the party group mechanism in the FEC regulations (Federal Election Commission 2002a). However, La Raja (chapter 6) argues that the “pull” of the Levin Amendment
will keep party organizations apart despite any "push" from deciding on spending strategies.

The date of nomination, which triggers enforcement of the binding choice between coordinated and independent spending, raises a number of interesting questions. In many states the date for congressional nominations is quite close to Election Day, and in presidential elections the nominees are often known long before they are officially nominated at the national convention. Previously, the FEC allowed parties to make coordinated expenditures on behalf of the "eventual nominee" in congressional races and made special provisions for coordinated expenditures to cover certain administrative and overhead expenses for presidential candidates in the "bridge" period between the time when they hit their spending limit in the primary season and the moment they receive their general election public funds (for the Dole primary campaign in 1996, for example; see Corrado 2002, 84). Under BCRA, total coordinated spending will remain capped for the entire cycle, and when the total limit is reached, that type of spending must cease regardless of the date. In the regulations adopted December 5, 2002, the FEC stated that no additional coordinated spending will be allowed for runoff elections. Once the limit is reached, no more coordinated spending may occur.

Preprimary party spending was often thought of as taboo in the past, particularly for House and Senate races. Yet BCRA may encourage an increase in party spending prior to primaries, for it appears that parties will be able to make both coordinated and independent expenditures during this period (or to spend independently through the nomination and in a coordinated matter thereafter). This will have the practical effect of increasing the overall hard money amount a party spends to help get a federal candidate elected, contrary to the intent of BCRA's sponsors to limit national party spending in federal elections. Party spending limits such as those for contributions and coordinated expenditures seem to force parties to spread their resources around to more candidates, which might enhance competition in races that do not start off as close contests. Yet the new rules continue to allow the national parties to spend potentially unlimited amounts with large hard money independent expenditures, a move they have been reluctant to make in the past but one that is more attractive without the option of soft-money-based issue advocacy ads. Thus the parties are likely to continue to direct resources to very few states and House districts and therefore do little to make more races competitive.

It is difficult to know precisely how the national parties will behave now that soft money is banned, but looking at how coordinated and independent expenditures have been spent in the past in congressional elections gives us some indications of the patterns and strategies the parties have followed. Table 5.1 gives an overall accounting of coordinated and independent expenditures in the 2000 House elections. We chose to analyze House races because the DCCC was the only one of the four congressional campaign committees to engage in indepen-

dent expenditures in the 2000 cycle. First, we looked only at the thirty-eight races for which the DCCC designed independent expenditure campaigns. Next, we compared how the DCCC and NRCC spent their coordinated money and how the DCCC used its independent expenditure money in those races.

This analysis shows that the end of soft money does not necessarily mean the end of significant party spending, as many pundits have predicted. What is most striking is that the NRCC came close to spending the maximum allowable coordinated expenditure in each of these thirty-eight races (92.9 percent of the legal limit on average). The DCCC, by contrast, spent on average less than $47,000 in coordinated expenditures in each of the thirty-eight races (about 66.5 percent of the legal limit). This implies that Republicans directed more hard money to competitive races than Democrats did. However, the DCCC spent an additional $49,432 per race on average in independent expenditures. Every penny of the nearly $1.9 million the DCCC spent in independent expenditures in 2000 went to GOTV telephone banks. The DCCC ended up spending an average of $96,231 in hard money in each race (coordinated plus independent expenditures) compared to $66,665 (coordinated expenditures only) for the NRCC. This is an interesting point to ponder, since most observers have assumed that most increases in hard money spending by the Democrats went to provide adequate matches to soft money for issue ad spending in the various states. Here, we see that Democrats managed to get more hard dollars directly to races where they felt the money would matter. Also, we know anecdotally that the Democrats' major media spending was through issue ads on television, while the Republicans preferred more of a balance between TV and direct mail. Interestingly, Republicans still paid for candidate media efforts with their hard dollars at about twice the rate of Democrats for the same type of expenditure (coordinated).
Several important points emerge from the preceding discussion. First, the detailed accounting above shows that parties have begun and can learn to maximize the amount of hard money spent in the most competitive congressional elections. Second, party operatives and political consultants we interviewed in 2002 agreed that, despite the attractiveness of soft money spending, parties need to spend about $2 of issue ad money to get the same impact that $1 of hard money spending would provide (Johanson 2002). Words such as “vote for” or “vote against” are very important for an inattentive public. Candidates themselves can more easily convey an appeal for votes without using such words of express advocacy, since it is their names on the ballot. Indeed, the Brennan Center for Justice found that, in 2000, only 10 percent of candidate ads used express advocacy terms, and just 2 percent of party or group ads did so (Holman and McLoughlin 2001). But a party telling voters that Senator Smith loves seniors doesn’t motivate them to vote for Senator Smith as much as telling them to “vote for” Senator Smith because she loves seniors. BCRA forces parties to spend only hard money, and thus they can freely use these and other express advocacy terms. Therefore, we submit that parties can spend less hard money as effectively as they spent the greater soft/hard money mix previously allowed. Finally, the nature of the spending is noteworthy. Since BCRA’s largest effect on parties will be in ending the use of soft money to purchase issue ads, we may find that the already significant allocation of coordinated expenditure’s hard dollars to media may shift to a total allocation of hard dollars to media. The national committees may assume that state parties spending Levin Amendment soft money will pick up the task of spending on direct mail and phone banks.

We have no data for independent expenditures by parties for the presidency, because this type of spending had been expressly prohibited by the FEC under FECA. In a move not required by BCRA, the FEC decided to repeal its prohibition on national committees making independent expenditures in presidential campaigns (Federal Election Commission 2002a). Given the provisions discussed above, the FEC decided that national committees could choose to make independent expenditures for presidential campaigns, postnomination, provided they could meet the new rules establishing their “independence” from the candidate. Since BCRA creates an absolute choice for party committees in congressional elections, the FEC thought the choice ought to apply consistently to all federal candidates.

Previously, the FEC had prohibited the making of independent expenditures by the national committees during the general election on the premise that independence between the national committee and the party’s nominee was impossible. So, while the national committees spent hard and soft money on issue advertising in 1996 and 2000, they never had the option to make the exclusively hard money independent expenditures. If the national committees can realize hard dollar fund-raising success, they may indeed engage in independent expenditure campaigns. Since the presidential candidates are restricted to spending public funds (if they choose to participate in the public funding system), the parties may be in a better position to spend concentrated amounts in swing states. However, the parties will have to follow the very stringent guidelines for avoiding “coordination” to maintain independence from their candidates.

### Party Grassroots Activities and Consultants as Coordinators

The new law attempts to encourage party-sponsored voter mobilization activities, but it casts the state and local parties as the central players for these activities. The Levin Amendment allows state and local parties to spend some soft money (mixed with hard money) on some federal election activities (voter registration, voter identification, GOTV, and generic party activities). However, the national parties are not permitted to work with the state and local parties to raise or spend soft money for Levin Amendment exempt activities. The Levin activity money must be raised and spent by a state, district, or local party committee in a state that permits soft money. There can be no reference to a clearly identified candidate for federal office, and the activity may not be conducted through broadcasting, cable, or satellite communication, limiting the utility of these funds.

The availability of soft money on the state and local levels may encourage more of this grassroots party-building activity, as BCRA’s sponsors intended. Although party committees will not be able to engage in collaborative fund-raising or intercommittee transfers, collaborative spending of Levin Amendment funds on the subnational level is allowed (Bauer 2002, 32). Moreover, we see no prohibition of a number of state and local committees choosing to hire the same direct mail consultant or telemarketing consulting firm to conduct electoral activities. Clearly, though, the soft money fund-raising ban would prevent parties or their agents from using common strategies or vendors to raise funds.

The national parties already use only a handful of select consultants for media, direct mail, telemarketing, and polling; most of them are former party employees (Kolodny and Dulio 2003). In recent elections, issue advertising paid for with national party hard and soft money was highly coordinated with state parties where there were closely contested congressional races, to take advantage of more favorable soft money spending rules at the state level. The national parties transferred hard and soft money to the state parties, who in turn hired one of the media consultants who were drafting virtually all of that party’s issue ads for congressional races (Dwyre and Kolodny 2002). Moreover, the outside consultants with whom the parties work are keenly aware of which states and districts are competitive.

Indeed, lurking behind the analysis of hard money spending above is the revelation that less than 10 percent of this spending happened at the party headquarters. More than 90 percent was spent on political consultants who provide these services to the campaigns. This points to a significant set of relationships between party organizations and private “vendors” or political consultants. These parti-
san consultants may become more important players in the new campaign finance regime, for they may be able to conduct some campaign activities in support of the national parties' goals. For instance, party-aligned consultants may help coordinate state and local parties to raise or spend Levin soft money in the states and districts with the most competitive races or the richest Electoral College return potential. These consultants may be able to introduce large soft money contributors in the states to national policy makers after the election. In this way, a fairly small group of party-aligned consultants, many of whom worked at the national party committees at one time, or were Members of Congress, or recently held political advisory positions for governmental officials, may become party surrogates in the new campaign finance regime.

BCRA does not appear to prohibit these consultants—since they are not officers of the party (and only the parties' agents when under contract to them)—from coordinating the raising or spending of Levin Amendment soft money on the state and local levels. Thus BCRA might enhance the role of consultants with close ties to the national parties. In fact, the national parties may choose to have fewer employees, whose activities are severely restricted by the new law, and instead rely on the services of consultants. Further, the national parties could suggest to state and local party organizations that they hire competent consultants to assist their Levin money operations, getting the party out of the way of giving illegal direction to their party affiliates. Consultants, in turn, can assist groups friendly to the parties' interests (such as labor unions for the Democrats and chambers of commerce for the Republicans) in identifying which races might benefit from their independent spending and to help them parlay their efforts into better access to the national policy makers later on. Although the FEC has issued regulations clarifying what will and will not be considered a "coordinated communication," the same regulations also make clear that information that would constitute such coordination must be specific and not generally known. In addition, the FEC's test for coordination has three parts, all three of which must be met for coordination to be found. Those bringing charges against parties and consultants for violating BCRA must have a great deal of detailed knowledge to make the charges stick.

In testimony before the FEC in October 2002, attorneys for both parties urged the FEC not to interpret BCRA's restrictions on the use of "common vendors" and "former employees" too stringently because of the parties' reliance on these consultants. NRCC attorney Don McGahn testified that "[w]e like the Democratic Party, we also have people wandering in and out of our structure" (Federal Election Commission 2002d, 78). He noted that the concern for a consultant is, frankly, we'll run out of people on the bench very quickly if we get too complicated with who can work for whom and who can't work for whom. (Federal Election Commission 2002d, 78-79)

The Commissioners seemed to agree. They also agreed that political consultants are required to make the electoral process work. They therefore did not believe BCRA intended for them to monitor their consultants' alliances to such a point that consultants might not be able to conduct their business. Therefore, the activities of consultants are not likely to be closely scrutinized by the FEC. Hence, we believe that, over the next several election cycles, partisan political consultants will try a variety of arrangements to maximize the parties' influence in campaigns while minimizing the exposure of the parties to legal accusations under BCRA.

**CONCLUSION**

Campaign finance reforms are famous for producing some of the most contrary unintended consequences. BCRA is likely to be no different. We do know that the new law will change dramatically how the national parties operate. The ban on national party soft money raising and spending means that the national parties will spend far less to help their candidates get elected, at least in the short run.

The new law also may transform the relationship between the national and state parties. The national parties had developed rather shallow financial relationships with the state parties, to which they transferred soft money. However, the new law could discourage cooperation between parties at different levels. If state and local parties raise and spend Levin Amendment soft money, the national parties (and their federal candidates) are not permitted to work with them on activities related to these monies. On the other hand, with the new requirement that all party committees must make either coordinated or independent expenditures for a particular candidate, the national, state, and local party committees may work together more closely and meaningfully to pursue the best spending strategies, at least for the targeted federal candidates. Moreover, since the state and local parties are the only party organizations permitted to use Levin Amendment soft money on federal election voter mobilization activities, we might see more involvement by the state parties in congressional and presidential elections. We may see, as one of the unintended consequences of the law, real communication between various state parties and local party organizations about new strategies adopted to comply with the new law. While state delegates to the national conventions and members of the Democratic and Republican national committees have long seemed to have little or no practical function, the need for fast innovation post-BCRA may prompt regional midterm party meetings to share ideas.
Nonparty groups with a partisan tilt, such as the New Democratic Network and the newly established quasi-party groups, are likely to become quite active in federal elections as well. These groups are competing for the soft money that used to go to the national party committees, and if they are successful at raising large amounts they will do more issue advertising, direct mail, phone banking and other campaign activities. Of course, there will be some soft money donors who were willing to give to the parties, because of the access to top policy makers that the parties could deliver, but who are not willing to give to nonparty groups. Under the old campaign finance regime, there were reports that some corporate donors felt they were subjected to a party "shakedown" for soft money, and they will be relieved that the parties will no longer hold such sway over them. It is unlikely that all of the soft money that used to go to the national parties will shift to these nonparty groups and to the state and local parties. Yet there will certainly be more campaign activity from them as they are able to redirect some soft money their way.

Finally, we expect that consultants, who have for years worked closely with the national parties, could become important brokers of campaign activities that the national parties once orchestrated. BCRA severely limits what the officers and agents of the national parties may do, particularly for activities involving Levin Amendment soft money. Most of the consultants who now work on presidential and congressional races once worked for one or more of the national party committees, and they have continued to work closely with the national parties. The parties already hire private consultants to carry out the vast majority of their electoral tasks. Various firms have established extensive informal relationships with each other (such as between pollsters and media consultants or between pollsters and telemarketing/GOTV firms) and between themselves and various party officials and officeholders.

BCRA will change significantly the way federal campaigns are financed by shifting soft money away from the national party committees to the state and local parties, PACs, and nonprofit organizations. However, the national parties will be able to spend unlimited amounts of hard money on their candidates through independent expenditures. As they have done in the past, the national parties will recast themselves to test the limits of the new rules in order to pursue their goal of controlling the federal government, and, as before, they will find ways to direct quite a lot of money and effort to targeted districts and states.

Ultimately, the concern about BCRA and political parties rests on the assumption that political parties are now very strong, and soft money was the fuel that got them that way. We reject this assumption. The tightening of competition for control of the government forced the parties to become much more strategic about how they used their resources. Before the strategic environment changed in the 1994 election cycle, parties and interest groups did not commit great sums of money to election campaigns. Once the House Republicans proved that the national electoral environment was indeed competitive, the parties became more selective about targeting resources to the most competitive seats that could change party control of governmental institutions. This led to the parties' search for more resources—hence, soft money. Once deployed, soft money issue advocacy campaigns greatly escalated the cost of the increasingly small number of competitive races. Even party operatives in recent election cycles admit that, because of the universal escalation in cost and the activity of more actors (i.e., parties and interest groups), soft money only made a difference in the campaigns of two or three House Members and maybe one Senator each election. Therefore, we do not see that soft money has made the parties more relevant in the electoral arena.

We are not arguing that BCRA will create broader competition because of the absence of soft money. However, we do propose that parties may actually fare better under BCRA because they will be forced to focus on their traditional roles in candidate recruitment and electoral coalition building, and they will begin to exercise influence in primary campaigns. The focus on party money in recent years has obscured the important point that political parties are much more than their bank accounts.

NOTES

1. The Federal Election Commission required political parties to spend both hard and soft money on issue advocacy advertising. Thus, soft money could only be spent this way if hard money was available to match it. The FEC required a mix of 65 percent soft money with 35 percent hard money, although state laws could be far more restrictive or permissive in the mix; therefore state parties often spent the money for issue ads if circumstances warranted.

2. This confusion is understandable, since Colorado I was interpreted to allow parties to make both coordinated and independent expenditures in the same year, in essence allowing the party to "forget" about its earlier coordination with the candidate.